

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SANDRA C. BARKLEY,

Plaintiff,

-against-

04 CV 875 (KAM) (RLM)

UNITED HOMES, LLC, et al.,

Defendants.

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MARY LODGE,

Plaintiff,

-against-

05 CV 187 (KAM) (RLM)

UNITED HOMES, LLC, et al.,

Defendants.

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DEWITT MATHIS,

Plaintiff,

-against-

05 CV 4386 (KAM) (RLM)

UNITED HOMES, LLC, et al.,

Defendants.

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RODNEY GIBBONS & SYLVIA GIBBONS,

Plaintiffs,

-against-

05 CV 5302 (KAM) (RLM)

UNITED HOMES, LLC, et al.,

Defendants.

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MILES MCDALE & LISA MCDALE,

Plaintiffs,

-against-

05 CV 5362 (KAM) (RLM)

UNITED HOMES, LLC, et al.,

Defendants.

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CHARLENE WASHINGTON,

Plaintiff,

-against-

05 CV 5679 (KAM) (RLM)

UNITED HOMES, LLC, et al.,

Defendants.

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DECLARATION OF SARA MANAUGH

I, Sara Manaugh, hereby declare under penalty of perjury that the following is true and correct:

1. I am a member of the Bar of this Court and a Staff Attorney with the Foreclosure Prevention Project at South Brooklyn Legal Services, located at 105 Court Street, Brooklyn, New York 11201. I serve as co-counsel for the plaintiffs in the above-captioned consolidated actions.

2. I submit this Declaration pursuant to Rule 32(a)(4)(D) of the Federal Rules of Civil Procedure.

3. On April 22, 2011, this office submitted to a process service company six subpoenas *duces tecum* pursuant to Rule 45 of the Federal Rules of Civil Procedure, with the instruction to personally serve the subpoenas on each of six non-parties whom plaintiffs intend to call as witnesses at the trial of the consolidated actions.

4. At approximately 4:00 p.m. on April 22, 2011, I received a telephone call from the process server assigned to serve a subpoena upon Edmond Israel. He informed me that the Brooklyn address we had supplied (which our office obtained from the website www.anywho.com, a “White Pages People Search”) was the address of Mr. Israel’s ex-wife, and that she reported that she is unaware of his current address. According to the process server, the ex-wife believed that Mr. Israel may now work for a company called “Equity Source Home Loans.”

5. After concluding the call with the process server, I performed a “Google search” of the term “Equity Source Home Loans,” which search yielded numbers for several branches, all in New Jersey, for a company called Equity Source Home Loans, LLC. I telephoned each of the phone numbers associated with the listed branches. Several of the numbers had been disconnected or were no longer in service. The numbers that worked all had automated voice mail. Most of these had employee directories; when I searched each such directory, Mr. Israel’s

name was absent. In the one case where the voice mail had no directory but had a mail box, I left a voice mail asking for a return call from Edmond Israel if any such person were employed there. To date I have received no reply to this message.

6. At approximately 4:30 p.m. on April 22, 2011, I telephoned the process server and recounted my failed attempts at finding out whether Mr. Israel is employed at Equity Source Home Loans. I then gave the process server another Brooklyn address—the one Mr. Israel had given as his home address when he was deposed in these actions on March 27, 2008. The process server telephoned me approximately 30 minutes later and told me that he visited the address I gave him and was told by the occupants that Edmond Israel does not live there.

7. At approximately 5:45 p.m. on April 22, 2011, I ordered a search for Mr. Israel from the paid “people search” service Intelius. This search yielded another possible address and phone number for Mr. Israel beyond the two that had been attempted, and several addresses and phone numbers for people who may be related to Mr. Israel.

8. At approximately 10:20 a.m. on April 25, 2011, I contacted the process service company and requested that they attempt service at the address identified by the Intelius search.

9. At approximately 1:15 p.m. on April 26, 2011, I received a voice mail message from the process service company, stating that the process server had attempted service at the address identified by the Intelius search and was informed by the occupant that Edmond. Israel does not live there.

10. In the afternoon of April 26, 2011, I provided my co-counsel in these actions, Jean Constantine-Davis, with the several telephone numbers identified in the Intelius search as potentially belonging to Mr. Israel or to a relative. Ms. Constantine-Davis reported to me that she dialed each of these numbers and that several had been disconnected or are no longer in service. Ms. Constantine-Davis told me that the three successfully connected calls each went to voice mail, and that she left a message on each stating her name and telephone number, and

11. On May 10, 2011, the process service company provided our office with an Affidavit of Attempted Service sworn to on even date by the process server who attempted service on Mr. Israel. Said Affidavit is attached hereto as Exhibit A.

12. In light of the foregoing, it is respectfully submitted that Mr. Israel is unavailable as a witness at this trial because plaintiffs, despite their due diligence, are unable to procure his attendance by subpoena. Accordingly, plaintiffs seek to use at trial the portions of the deposition of Edmond Israel indicated in the designation list and excerpted transcript attached hereto as Exhibit B.

Dated: May 10, 2011
Brooklyn, New York



Sara Manaugh, Of Counsel
SOUTH BROOKLYN LEGAL SERVICES
105 Court Street, 3rd Floor
Brooklyn, NY 11201
(718) 237-5500
Attorney for Plaintiffs